

ASSEMBLY BILL

No. 64

Introduced by Assembly Member Berg

December 4, 2006

An act to add Article 7.7 (commencing with Section 8599.5) to Chapter 7 of Division 1 of Title 2 of the Government Code, relating to volunteer emergency services.

LEGISLATIVE COUNSEL'S DIGEST

AB 64, as introduced, Berg. Uniform Emergency Volunteer Health Practitioners Act.

Existing law establishes, in the Governor's office, the Office of Emergency Services, which, among others things, coordinates state emergency services in the event of a natural disaster. Existing law requires the Office of Emergency Services, in consultation with appropriate state and local governmental agencies and volunteer agencies, to develop a plan for state and local governmental agencies to utilize volunteer resources during a state of emergency proclaimed by the Governor. Existing law also, until March 1, 2007, ratifies, approves, and sets forth the provisions of the Emergency Management Assistance Compact.

This bill would enact the Uniform Emergency Volunteer Health Practitioners Act, which would provide procedures to register volunteer health practitioners with valid and current licenses in other states. The bill would allow such a volunteer to practice, through a host entity, health or veterinary services as appropriate pursuant to his or her license for the duration of a state or local emergency, and would require a host entity in this state to consult and coordinate its activities with the Office of Emergency Services to the extent practicable. The bill would allow

the office to, pursuant to the Emergency Management Assistance Compact, incorporate into the emergency forces of this state or a local government in this state registered volunteer health practitioners who are not officials or employees of this state.

This bill would set forth certain scope of practice standards for a registered volunteer health practitioner during an emergency and would allow the Office of Emergency Services and applicable licensing boards to limit, restrict, or otherwise regulate specific aspects of practice. The bill would also permit a host entity to restrict the health or veterinary services that such a practitioner may provide. The bill would exempt a registered volunteer health practitioner from the unauthorized practice provisions for a health or veterinary service unless he or she has reason to know of an applicable limitation, modification, or restriction or that a similarly licensed practitioner in this state would not be permitted to provide that service. The bill would allow a health care licensing board to impose administrative sanctions upon a health practitioner licensed in this state for conduct outside of this state in response to an out-of-state emergency, and to impose administrative sanctions upon a practitioner not licensed in this state for conduct in this state in response to an in-state emergency, if certain conditions are met.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 7.7 (commencing with Section 8599.5)
2 is added to Chapter 7 of Division 1 of Title 2 of the Government
3 Code, to read:

4
5 Article 7.7. Uniform Emergency Volunteer Health Practitioners
6 Act

7
8 8599.5. This article may be cited as the Uniform Emergency
9 Volunteer Health Practitioners Act.

10 8599.51. For the purposes of this article, the following terms
11 have the following meanings:

12 (a) "Disaster relief organization" means an entity that provides
13 emergency or disaster relief services that include health or
14 veterinary services provided by volunteer health practitioners and
15 that meets either of the following requirements:

1 (1) It is designated or recognized as a provider of those services
2 pursuant to a disaster response and recovery plan adopted by an
3 agency of the federal government or the Office of Emergency
4 Services.

5 (2) It regularly plans and conducts its activities in coordination
6 with an agency of the federal government or the Office of
7 Emergency Services.

8 (b) “Emergency” means an event or condition that is a state of
9 emergency proclaimed pursuant to Section 8625 or a local
10 emergency proclaimed pursuant to Section 8630.

11 (c) “Emergency declaration” means a proclamation of
12 emergency issued pursuant to Section 8625 or 8630.

13 (d) “Emergency Management Assistance Compact” means the
14 interstate compact approved by Congress by Public Law No.
15 104-321 and ratified in Article 3.7 (commencing with Section 179)
16 of Chapter 1 of Division 1 of Title 1.

17 (e) “Entity” means a person other than an individual.

18 (f) “Health facility” means an entity licensed under the laws of
19 this or another state to provide health or veterinary services.

20 (g) “Health practitioner” means an individual licensed under
21 the laws of this or another state to provide health or veterinary
22 services.

23 (h) “Health services” means the provision of treatment, care,
24 advice, or guidance, or other services, or supplies, related to the
25 health or death of individuals or human populations, to the extent
26 necessary to respond to an emergency, including all of the
27 following:

28 (1) Services or supplies concerning the physical or mental
29 condition or functional status of an individual or affecting the
30 structure or function of the body, including the following:

31 (A) Preventive, diagnostic, therapeutic, rehabilitative,
32 maintenance, or palliative care.

33 (B) Counseling, assessment, procedures, or other services.

34 (2) The sale or dispensing of a drug, a device, equipment, or
35 another item to an individual in accordance with a prescription.

36 (3) Funeral, cremation, cemetery, or other mortuary services.

37 (i) “Host entity” means an entity operating in this state that uses
38 volunteer health practitioners to respond to an emergency.

39 (j) “License” means authorization by a state to engage in health
40 or veterinary services that are unlawful without the authorization.

1 (k) “Person” means an individual, corporation, business trust,
2 trust, partnership, limited liability company, association, joint
3 venture, public corporation, government or governmental
4 subdivision, agency, or instrumentality, or any other legal or
5 commercial entity.

6 (l) “Scope of practice” means the extent of the authorization to
7 provide health or veterinary services granted to a health practitioner
8 by a license issued to the practitioner in the state in which the
9 principal part of the practitioner’s services are rendered, including
10 any conditions imposed by the licensing authority in that state.

11 (m) “State” means a state of the United States, the District of
12 Columbia, Puerto Rico, the United States Virgin Islands, or any
13 territory or insular possession subject to the jurisdiction of the
14 United States.

15 (n) “Veterinary services” means the provision of treatment,
16 care, advice or guidance, or other services or supplies, related to
17 the health or death of an animal or to animal populations, to the
18 extent necessary to respond to an emergency, including all of the
19 following:

20 (1) Diagnosis, treatment, or prevention of an animal disease,
21 injury, or other physical or mental condition by the prescription,
22 administration, or dispensing of vaccine, medicine, surgery, or
23 therapy.

24 (2) Use of a procedure for reproductive management.

25 (3) Monitoring and treatment of animal populations for diseases
26 that have spread or demonstrate the potential to spread to humans.

27 (o) “Volunteer health practitioner” means a health practitioner
28 who provides health or veterinary services, whether or not the
29 practitioner receives compensation for those services. “Volunteer
30 health practitioner” does not include a practitioner who receives
31 compensation pursuant to a preexisting employment relationship
32 with a host entity or affiliate that requires the practitioner to provide
33 health services in this state, unless the practitioner is not a resident
34 of this state and is employed by a disaster relief organization
35 providing services in this state while an emergency declaration is
36 in effect.

37 8599.52. This article applies to volunteer health practitioners
38 registered with a registration system that complies with Section
39 8599.54 and who provide health or veterinary services in this state
40 for a host entity while an emergency declaration is in effect.

1 8599.53. (a) While an emergency declaration is in effect, the
2 Office of Emergency Services may limit, restrict, or otherwise
3 regulate all of the following:

- 4 (1) The duration of practice by volunteer health practitioners.
- 5 (2) The geographical areas in which volunteer health
6 practitioners may practice.
- 7 (3) The types of volunteer health practitioners who may practice.
- 8 (4) Any other matters necessary to coordinate effectively the
9 provision of health or veterinary services during the emergency.

10 (b) An order issued pursuant to subdivision (a) may take effect
11 immediately, without prior notice or comment, and is not a
12 regulation within the meaning of the Administrative Procedure
13 Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of
14 Division 3).

15 (c) A host entity that uses volunteer health practitioners to
16 provide health or veterinary services in this state shall do both of
17 the following:

18 (1) Consult and coordinate its activities with the Office of
19 Emergency Services to the extent practicable to provide for the
20 efficient and effective use of volunteer health practitioners.

21 (2) Comply with any laws other than this article relating to the
22 management of emergency health or veterinary services.

23 8599.54. (a) To qualify as a volunteer health practitioner
24 registration system, a system must do all of the following:

25 (1) Accept applications for the registration of volunteer health
26 practitioners before or during an emergency.

27 (2) Include information about the licensure and good standing
28 of health practitioners that is accessible by authorized persons.

29 (3) Be capable of confirming the accuracy of information
30 concerning whether a health practitioner is licensed and in good
31 standing before health services or veterinary services are provided
32 under this article.

33 (4) Meet at least one of the following conditions:

34 (A) Be an emergency system for advance registration of
35 volunteer healthcare practitioners established by a state and funded
36 through the Health Resources Services Administration under
37 Section 319I of the Public Health Services Act (42 U.S.C. Sec.
38 247d-7b).

39 (B) Be a local unit consisting of trained and equipped emergency
40 response, public health, and medical personnel formed pursuant

1 to Section 2801 of the Public Health Services Act (42 U.S.C. Sec.
2 300hh).

3 (C) Be operated by one of the following:

4 (i) A disaster relief organization.

5 (ii) A licensing board or bureau established pursuant to Division
6 2 (commencing with Section 500) of, or Chapter 12 (commencing
7 with Section 7600) of Division 3 of, the Business and Professions
8 Code.

9 (iii) A national or regional association of licensing boards or
10 health practitioners.

11 (iv) A health facility that provides comprehensive inpatient and
12 outpatient health care services, including a tertiary care and
13 teaching hospital.

14 (v) A governmental entity.

15 (D) Be designated by the Office of Emergency Services as a
16 registration system for purposes of this article.

17 (b) While an emergency declaration is in effect, the Office of
18 Emergency Services, a person authorized to act on behalf of the
19 office, or a host entity may confirm whether volunteer health
20 practitioners utilized in this state are registered with a registration
21 system that complies with subdivision (a). Confirmation is limited
22 to obtaining identities of the practitioners from the system and
23 determining whether the system indicates that the practitioners are
24 licensed and in good standing.

25 (c) Upon request of a person in this state authorized to manage
26 the emergency response, or a similarly authorized person in another
27 state, a registration system located in this state shall notify the
28 person of the identities of volunteer health practitioners and
29 whether the practitioners are licensed and in good standing.

30 (d) A host entity is not required to use the services of a volunteer
31 health practitioner even if the practitioner is registered with a
32 registration system that indicates that the practitioner is licensed
33 and in good standing.

34 8599.55. (a) While an emergency declaration is in effect, a
35 volunteer health practitioner, registered with a registration system
36 that complies with Section 8599.54 and licensed and in good
37 standing in the state in which the practitioner's registration is based,
38 may practice in this state to the extent authorized by this article as
39 if the practitioner were licensed in this state.

1 (b) A volunteer health practitioner qualified under subdivision
2 (a) is not entitled to the protections of this article if the practitioner
3 is licensed in more than one state and any license of the practitioner
4 is suspended, revoked, or subject to an order limiting or restricting
5 practice privileges, or has been voluntarily terminated under threat
6 of sanction.

7 8599.56. (a) For purposes of this section, the following terms
8 have the following meanings:

9 (1) “Credentialing” means obtaining, verifying, and assessing
10 the qualifications of a health practitioner to provide treatment,
11 care, or services in or for a health facility.

12 (2) “Privileging” means the authorizing by an appropriate
13 authority, such as a governing body, of a health practitioner to
14 provide specific treatment, care, or services at a health facility
15 subject to limits based on factors that include license, education,
16 training, experience, competence, health status, and specialized
17 skill.

18 (b) This article does not affect credentialing or privileging
19 standards of a health facility and does not preclude a health facility
20 from waiving or modifying those standards while an emergency
21 declaration is in effect.

22 8599.57. (a) Subject to subdivisions (b) and (c), a volunteer
23 health practitioner shall adhere to the scope of practice for a
24 similarly licensed practitioner established by the licensing
25 provisions, practice acts, or other laws of this state.

26 (b) Except as otherwise provided in subdivision (c), this article
27 does not authorize a volunteer health practitioner to provide
28 services that are outside the practitioner’s scope of practice, even
29 if a similarly licensed practitioner in this state would be permitted
30 to provide the services.

31 (c) The applicable licensing board or bureau may modify or
32 restrict the health services or veterinary services regulated by that
33 body that volunteer health practitioners may provide pursuant to
34 this article. An order under this subdivision may take effect
35 immediately, without prior notice or comment, and is not a
36 regulation within the meaning of the Administrative Procedure
37 Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of
38 Division 3).

1 (d) A host entity may restrict the health or veterinary services
2 that a volunteer health practitioner may provide pursuant to this
3 article.

4 (e) A volunteer health practitioner shall not be found to have
5 engaged in unauthorized practice unless the practitioner has reason
6 to know of any limitation, modification, or restriction under this
7 section or that a similarly licensed practitioner in this state would
8 not be permitted to provide the services. A volunteer health
9 practitioner has reason to know of a limitation, modification, or
10 restriction or that a similarly licensed practitioner in this state
11 would not be permitted to provide a service if either:

12 (1) The practitioner knows the limitation, modification, or
13 restriction exists or that a similarly licensed practitioner in this
14 state would not be permitted to provide the service.

15 (2) From all the facts and circumstances known to the
16 practitioner at the relevant time, a reasonable person would
17 conclude that the limitation, modification, or restriction exists or
18 that a similarly licensed practitioner in this state would not be
19 permitted to provide the service.

20 (f) In addition to the authority granted by the laws of this state,
21 other than this article, to regulate the conduct of health
22 practitioners, a licensing board or other disciplinary authority in
23 this state has the following powers and duties:

24 (1) It may impose administrative sanctions upon a health
25 practitioner licensed in this state for conduct outside of this state
26 in response to an out-of-state emergency.

27 (2) It may impose administrative sanctions upon a practitioner
28 not licensed in this state for conduct in this state in response to an
29 in-state emergency.

30 (3) It shall report any administrative sanctions imposed upon a
31 practitioner licensed in another state to the appropriate licensing
32 board or other disciplinary authority in any other state in which
33 the practitioner is known to be licensed.

34 (g) In determining whether to impose administrative sanctions
35 under subdivision (f), a licensing board or other disciplinary
36 authority shall consider the circumstances in which the conduct
37 took place, including any exigent circumstances, and the
38 practitioner's scope of practice, education, training, experience,
39 and specialized skill.

1 8599.57. (a) This article does not limit rights, privileges, or
2 immunities provided to volunteer health practitioners by laws other
3 than this article. Except as otherwise provided in subdivision (b),
4 this article does not affect requirements for the use of health
5 practitioners pursuant to the Emergency Management Assistance
6 Compact.

7 (b) The Office of Emergency Services, pursuant to the
8 Emergency Management Assistance Compact, may incorporate
9 into the emergency forces of this state volunteer health practitioners
10 who are not officers or employees of this state, a political
11 subdivision of this state, or a municipality or other local
12 government within this state.

13 8599.6. The Office of Emergency Services may promulgate
14 rules to implement this article. In doing so, the office shall consult
15 with and consider the recommendations of the entity established
16 to coordinate the implementation of the Emergency Management
17 Assistance Compact and shall also consult with and consider rules
18 promulgated by similarly empowered agencies in other states to
19 promote uniformity of application of this article and make the
20 emergency response systems in the various states reasonably
21 compatible

22 8599.61. In applying and construing this article, consideration
23 shall be given to the need to promote uniformity of the law with
24 respect to its subject matter among states that enact it.